

Media brief

C-4/2023 Mirin

Summary

Arian Mirzarafie-Ahi — a transgender man with dual Romanian and British citizenship — filed a lawsuit at the Bucharest District Court (Sector 6) against the Cluj Directorate for Personal Records (Civil Status Service), the Directorate for Personal Records and Database Administration (D.E.P.A.B.D.), and the Municipality of Cluj, represented by Mayor Emil Boc. The case was brought after Romanian authorities refused to amend his first name and gender markers in his identity documents through a simple administrative procedure, in order to align them with the changes already legally obtained in the United Kingdom, at a time when the country was still treated as equivalent to an EU Member State.

In June 2020, before a court in the United Kingdom, Arian obtained a Gender Recognition Certificate — a document confirming his male gender identity in all official records concerning his identity. These documents confirm that Arian completed all the medical and legal steps required in the UK to change his documents. They were issued before the completion of Brexit.

However, Romanian authorities refused to recognize his new civil status and required him to also undergo Romanian procedures for gender recognition — procedures that violate the European Convention on Human Rights.

In the second half of 2022, the Bucharest District Court (Sector 6) decided to refer preliminary questions to the Court of Justice of the European Union (CJEU), considering that Romania's refusal to recognize the change in Arian's legal civil status obtained in the United Kingdom might violate EU law, including rules concerning free movement and EU citizenship.

In 2024, the CJEU ruled that Romania must register any changes to the name and gender in the identity documents of Romanian citizens made in other EU Member States, without requiring individuals to go through a new domestic gender recognition procedure.

The case returned to the Romanian courts, which, in line with the CJEU ruling, decided in Arian's favor. Contrary to their obligation to properly represent citizens' interests and to acknowledge the binding nature of European human rights jurisprudence, the Civil Status Office in Cluj and the Directorate for Personal Records appealed the court's decision, refusing to apply European case law.

In March of this year, the Bucharest Tribunal dismissed the appeal, reaffirming the importance of respecting the rights of transgender people in Romania as European citizens.

The activity of the Grand Chamber of CJUE

The Court of Justice of the European Union can judge in plenary sessions, in the Grand Chamber (fifteen judges) or in chambers of five or three judges.

The Court meets in Grand Chamber plenary session in the special cases provided for by the Statute of the Court (among others, when it has to pronounce the dismissal of the Ombudsman or order ex officio the dismissal of a European Commissioner who has not respected his obligations) and **when the Court considers that a case presents an exceptional importance.**

The Court meets in the Grand Chamber at the request of a member state or an institution that is a party to a process, **as well as in particularly complex or important cases.** The other cases are resolved in chambers of five or three judges.

Between 2018 and 2020, only 10% of cases submitted to the Court reached the Grand Chamber.

Legal gender recognition in Romania

In January 2021, the ECtHR ruled in [X and Y \(2145/16\)](#) judgment that Romania has failed to fulfill its positive obligation to ensure respect for private life on account of the absence of a clear and foreseeable legal framework for recognition of gender identity, allowing for the change of gender marker, first name and personal digital code in civil status records and official documents, in a quick, transparent and accessible manner.

According to the [“Trans in Romania”](#) Report published by ACCEPT in 2021, the formalism of court proceedings and the duration of legal gender recognition trials represent disproportionate obstacles in legal gender recognition. The judicial procedure focuses on proving one’s gender identity, with evidence external to the trans person (medical documents, witnesses, etc.), deeming self-determination of the transgender person as inferior or even irrelevant.

In court judgments monitored by ACCEPT, transgender people are dehumanised by judges, prosecutors and forensic experts who question their mental capacity, identity, or even their will and condition as human beings.

Background of the case

Arian emigrated with his family to the UK in 2008 and obtained his British citizenship in 2016. In 2016, at 24 years old, he started his legal and medical transition. In 2017, he obtained the legal change of his name and gender pronouns through the Deed Poll procedure.

In 2020, he obtained the Gender Identity Certificate - the last legal procedure in the UK, before the British courts - that confirmed his masculine gender in all official records. These records confirm that Arian underwent all the necessary medical and legal steps that are mandatory in the UK for changing documents.

In 2021, Arian sought to have his documents in Romania changed and recognised based on these legal decisions of the UK, still treated as an EU Member State at that time. Arian addressed the Directorate of Persons' Records in Cluj Napoca Municipality – the Civil Status Service requesting the registration of the change of gender, first name and personal identification number and the registration of his male gender on his Romanian birth certificate based on the documents already obtained in the UK.

He took this step, addressing this matter as a simple administrative procedure rather than appearing before a judge, based on the information available on the website of the Romanian Consulate in London, and based on correspondence with them that people could request a simple administrative procedure for changing the gender pronouns and the name if they possess a judgment by a foreign court and Deed Poll with the Hague Convention Apostille.

Arian had submitted the administrative application for civil status as his situation matched the one described by the Romanian Consulate in London. In July 2021, the Directorate of Persons' Records in Cluj Napoca Municipality – the Civil Status Service rejected the request and refused to change Arian's documents according to the legal UK recognition of his gender and name.

In 2022, Arian, represented by the lawyer Iustina Ionescu, filed an action against the Directorate of Persons' Records in Cluj Napoca Municipality and against Cluj municipality represented by the mayor Emil Boc. The action requests that his gender and name changes be inscribed on his birth certificate.

The action is justified by the violation of Arian's fundamental rights, especially the right to free movement and residence as an EU citizen. The disparity between his Romanian documents and his identity means that he may be exposed to humiliation and discrimination if

he tries to travel with his Romanian documents, which are the only EU identity documents he possesses since Brexit.

It is not justifiable nor reasonable for the Romanian authorities to force Arian to go through another procedure, this time in Romania, since he already went through all existing legal procedures in the UK in order to change his identity documents as a British citizen, when the UK was still treated as an EU Member State.

It is important to note that the Romanian procedure is long and involves proving aspects about Arian's gender identity once more. Those aspects have already been proven in the UK. In addition, the ultimate decision to accept his identity change is left to the discretion of a judge that could be negative. This means that Arian could end up with two different identities for the rest of his life: one identity in the UK (a masculine identity) and another identity in Romania (a feminine one).

This situation violates his right to free movement and residence in the EU, is discriminatory and burdensome. Moreover, the Romanian authorities' refusal to acknowledge the decision of another Member State contradicts the duties which Member States have with their accession to the European Union.

Since January 1, 2021, when the United Kingdom left the European Union, Arian has exercised his right to free movement and residence as a European citizen exclusively on the basis of his Romanian documents, which do not correspond to his appearance, create confusion, and expose him to humiliation and discrimination from those who request identification.

In 2024, the Court ruled that Romania must register any changes to the name and gender in the identity documents of Romanian citizens made in other EU Member States, without requiring individuals to go through a new domestic gender recognition procedure.

The case returned to the Romanian courts, which, in line with the ruling of the Court of Justice of the European Union, ruled in Arian's favor. Contrary to their obligation to properly represent the interests of citizens and to recognize the binding nature of European human rights jurisprudence, the Cluj Civil Status Office and the Directorate for Personal Records appealed the court's decision, refusing to apply European case law.

In March 2026, the Bucharest Tribunal dismissed the appeal, reaffirming the importance of respecting the rights of transgender people in Romania as European citizens.

Legal grounds of the case

His legal action before the Bucharest District Court is based on the application of Art.18, 20 and 21 of the Treaty on the Functioning of the European Union (TFEU) and fundamental human rights from the Charter of Fundamental Rights of the European Union: art.45 (freedom of movement and residence), art.1 (human dignity), art.3 (the right to integrity of the person), art.4 (prohibition of torture and inhuman or degrading treatment or punishment), art.7 (respect for private and family life), art.21 (anti-discrimination). The action requests that the Romanian authorities be obliged to change his identity documents through a simple administrative procedure.

Because the action raises questions of interpretation of EU law, including the TFEU and the Charter of Fundamental Rights, the Bucharest District Court found it necessary to consult the Court of Justice of the European Union (CJEU).

The CJEU is the only competent court to interpret treaties in the context of new legal issues, including issues regarding transgender people, that have not yet been addressed.

The preliminary questions addressed to the CJEU are:

(1) Does the fact that Article 43(i) and Article 57 of Legea nr. 119/1996 privind actele de stare civilă (Law No 119/1996 on civil status documents) do not recognise changes in civil status made in another Member State by means of the procedure for legal recognition of gender to entries concerning gender and first name by a transgender man who has dual nationality (Romanian and of another Member State) and require a Romanian citizen to bring, from the outset, separate judicial proceedings in Romania against the local Public Service for Personal Records and Civil Status – proceedings which have been held to lack clarity and foreseeability by the European Court of Human Rights (X and Y v. Romania, nos. 2145/16 and 20607/16, 19 January 2021) and which may lead to a decision contrary to that taken by the other Member State – constitute an obstacle to the exercise of the right to European citizenship (Article 20 of the Treaty on the Functioning of the European Union) and/or the right of citizens of the Union to move and reside freely (Article 21 of the Treaty on the Functioning of the European Union and Article 45 of the Charter of Fundamental Rights of the European Union) in conditions of dignity, equality before the law and nondiscrimination (Article 2 of the Treaty on European Union; Article 18 of the Treaty on the Functioning of the European Union, and Articles 1, 20 and 21 of the Charter of Fundamental Rights of the European Union), respecting the right to private and family life (Article 7 of the Charter of Fundamental Rights of the European Union)?

(2) Does the departure of the United Kingdom of Great Britain and Northern Ireland from the European Union affect the answer to the above question, in

particular where (i) the procedure for changing civil status was commenced before Brexit and was completed during the transition period, and (ii) the impact of Brexit means that the person cannot benefit from rights attached to European citizenship, including the right to free movement and residence, except on the basis of Romanian identity or travel documents in which that person appears with a female gender and first name, contrary to the gender identity that has already been legally recognised?

The chronology of the case

2008: Arian moves to the UK with his family and obtains British citizenship.

February 21st, 2017: Arian changes his first name and title from feminine to masculine in the UK through the Deed Poll procedure. Therefore, in the same year, the British authorities inscribed his new first name in the driver's license that is being used de facto in the UK as an identity document and in the British passport.

June 29th, 2020: Arian obtains Gender Identity Certificate, the last legal procedure in UK, before the court, that confirms his masculine gender identity in all official documents regarding Arian's identity.

May 2021: Arian addresses the Directorate of Persons' Records Cluj Napoca Municipality – the Civil Status Service requesting the registration of the change of gender, first name and personal identification number to reflect the male gender in the Romanian birth certificate and a new personal identification number that reflects his masculine identity directly on the basis of the documents already obtained in Great Britain (Deed Poll and Gender Identity Certificate, the last legal procedure in Great Britain, before the court). He took this step - addressing this matter as a simple administrative procedure rather than appearing before a judge - based on the information made available via the website of the Romanian consulate in London and based on a conversation with this institution that informed the public that people could request a simple administrative procedure for changing the sex markers and the first/last name if one possesses a decision pronounced by a foreign court (from the UK) and Deed Poll with the Hague Convention Apostille. Arian had submitted the administrative application for civil status in question based on his conclusion that his situation matched the one described by the Romanian consulate in London and as he had a legal decision made by a Member State of the EU. In July 2021, the Directorate of Persons' Records Cluj Napoca Municipality – the Civil Status Service rejected the request and refused recognition of the legal procedures that Arian had undergone up until that moment.

June 21st, 2021: Arian receives a negative answer from the Directorate of Persons' Records Cluj Napoca Municipality – the Civil Status Service.



Str. Lirei nr.10, București, România

Tel./Fax: + 40 (21) 252 56 20, 252 16 37, 252 90 00

E-mail: accept@acceptromania.ro, www.acceptromania.ro

2021: Arian filed an action at the Bucharest District Court 6 against the Directorate of Persons' Records Cluj Napoca Municipality – the Civil Status Service and against the Cluj Municipality because of their refusal to align his documents with changed gender markers according to the decision of UK, that was still treated like an EU Member State at that time.

2022 (second half of the year): The Bucharest District Court 6 granted Adrian's request to refer the preliminary questions to CJEU.

14 October 2024 – The CJEU rules that Romania must register any changes to the name and gender in the identity documents of Romanian citizens made in other EU Member States, without requiring individuals to undergo a new domestic gender recognition procedure.

28 March 2025 – The Bucharest District Court (Sector 6) rules in Arian's favor, taking into account the CJEU judgment.

March 2026 – The Bucharest Tribunal rejects the appeal filed by the Cluj Civil Status Office and the Directorate for Personal Records, making the decision of the Romanian courts final.

Press statements:

Arian Mirzarafie-Ahi, plaintiff

Iustina Ionescu, human rights lawyer, Arian's representative

Victor Ciobotaru, ACCEPT executive director.

To schedule interviews: Alexandra Scînteianu, communication & PR ACCEPT, 0769717887, alexandra@acceptromania.ro